THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17784 of 2005

Dated: 13.06.2006

Between

P.Dhavaleswara Rao

…..Petitioner

and

1.The Govt of A.P., Agriculture & Cooperation

(Coop V) Dept., Secretariat, Hyderabad,

rep., by its Principal Secretary and others.

….Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18296 of 2005

Dated: 13.06.2006

Between

Marugu Devadanam

…Petitioner

and

1.The Govt of A.P., Agriculture & Cooperation

(Coop V) Dept., Secretariat, Hyderabad,

rep., by its Principal Secretary and others.

….Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19031 of 2005

Between

Damerla Raja Rao

…Petitioner

and

1.The Govt of A.P., Agriculture & Cooperation

(Coop V) Dept., Secretariat, Hyderabad,

rep., by its Principal Secretary and others.

….Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.17784, 18286 & 19031 of 2005

COMMON ORDER:

In all these writ petitions common question of facts and law arises for consideration. Therefore, they are being disposed of by this common order.

The only aspect urged by the learned counsel for the petitioners is that the 3rd respondent has no authority to pass the impugned proceedings under Section 15 (A) (2) of the AP Co-operative Societies Act 7 of 1964.

There is no dispute that the 3rd respondent is the Registrar under the Cooperative Societies Act . But, according to the learned counsel for the petitioners, the powers to pass orders under Section 15 (A) (1) (e) as well as

15 (A) (2) are delegated to the 5th respondent-Divisional Cooperative Officer, therefore, the impugned order was passed without any jurisdiction and thus, the same is liable to be set aside.

There is no necessity to go into all the details. The learned counsel for the petitioners placed reliance only on GO.Ms No. 34 Food and Agriculture (Coop IV) dated 18.01.1989. According to him, as per Item No.3 of the schedule attached to the G.O, all the powers of the Registrar under the Act except those are conferred on the Deputy Registrar of Co-operative Societies, in charge of the divisions, are vested with him. Therefore, the power of the Collector impliedly has been ousted in dealing with the matters under Section 15-A (1) (e) as well as 15-A (2) of the Act. The said item No.3 of the notification reads as under:

3.	Deputy Registrar of Co-operative Societies in-charge of divisions.	(i) Apex societies with head-quarters situated in division, District Co-operative Central Banks, District Co-operative Marketing Societies and other district level societies and societies whose area of operation extends to more than one district and whose head quarters is situated in the division.	Powers to the Registrar under Sections 6, 7 except powers under Section 7 (1) (insofar as it relates to prescribing minimum share capital and membership) and Sections 8, 16, 61,62, 70, 71,73 and 74 of the Act.
		(ii) Urban Banks coming under the Banking Regulation Act.	All the powers of the Registrar under the Act except those under Sections 4 (2), 7(1) (insofar as it relates to prescribing minimum share capital and membership) Sections 17,18 third proviso to sub-section (1) of Sections 31, Section 32 (7), 34, 50, 51, 52, 64 (1), 76, 86, 115, 116, 116-A, and 116-C and the powers of the Registrar under Rules 4,12, 27, 28, 29, 34 (14), 39, 41, 45, 59 and 68.

(iii) Societies specified in Rule 12-A of the APCS Rules, 1964 and all other Primary Societies and Societies whose area of operation extends beyond the division and whose head quarters is situated in the division except societies under the administrative control of functional registrars.	All the powers of the Registrar under the Act, except those under Sections 4 (2), 7(1) (insofar as it relates to prescribing minimum share capital and membership) Sections 17, 18, 19, (2B), (second and third proviso to Sub-section (1) (a) of Section 31), Sections 50, 51, 52, 76, 86, 115, 116, 116-A and 116 –C and the powers of the Registrar under Rules 4, 12, 27, 28, 29, 34 (14), 39, 41, 45, 59, and 68.

(Added by GOMs.No.50, F & A, dt.9.1.1992 and omitted by G.O.Ms.No.64, F & A, dt.13.1.1992)

The above section does not deal with any express provision, which confers or delegates powers of the Collector (Registrar Cooperation) under Section 15-A of the Act with the Deputy Registrar of the Cooperative Societies.

Learned counsel for the petitioners contended that an over all reading of this item No.3 of GO.Ms No. 34 Food and Agriculture (Coop IV) dated 18.01.1989, impliedly makes it clear that the power under Section 15-A of the Cooperative Societies Act shall be exercised by the Deputy Registrar of the Cooperative Societies only insofar as the Primary Agricultural Cooperative Societies are concerned.

I am afraid I cannot agree with the submission made by the learned counsel for the petitioners. For the purpose of Section 15-A Registrar means "the person whom the powers of the Registrar under this Section are conferred under Clause (n) of Section 2."

Admittedly, no express powers are conferred on the 5th respondent-Deputy Registrar of Cooperative Societies under this section. Therefore, by a general delegation of powers to the Subordinate officers vide GO.Ms No. 34 Food and Agriculture (Coop IV) dated 18.01.1989, it cannot be construed that the powers under Section 15-A of the Act were also conferred on the 5th respondent.

Therefore, the 5th respondent has no jurisdiction to deal with the matter.

In the absence of any express provision, the language used in GO cited above, particularly in the absence of express delegation of powers under Section 15-A of the Act, it cannot be said that the 3rd respondent has no power, authority or jurisdiction to issue the impugned notification. I am not in agreement with the submissions of the learned counsel for the petitioners. The writ petiton is devoid of merits and is liable to be dismissed.

Accordingly, all the writ petitions are dismissed. No costs.

_____

13.06.2006

rkk